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**From:** Rau, Ben (ECY) [benr461@ECY.WA.GOV]  
**Sent:** 11/8/2018 11:44:33 PM  
**To:** Mann, Laurie [mann.laurie@epa.gov]  
**CC:** Henderson, Lara (ECY) [lboy461@ECY.WA.GOV]  
**Subject:** feedback on WQ-27  
**Attachments:** Straight to Implementation guidance.docx; SWRO Alternatives Guidance.docx

Hello Laurie, Thanks for passing along. Here are some thoughts/Feedback. You already know this but Helen was heavily involved in helping craft the Vision. Needless to say I am very supportive of it and think it is helpful. Same goes for WQ 27. Ben

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**From:** Mann, Laurie [<mailto:mann.laurie@epa.gov>]  
**Sent:** Wednesday, November 07, 2018 9:06 AM  
**To:** Rau, Ben (ECY) <[benr461@ECY.WA.GOV](mailto:benr461@ECY.WA.GOV)>; Henderson, Lara (ECY) <[lboy461@ECY.WA.GOV](mailto:lboy461@ECY.WA.GOV)>  
**Subject:** feedback on WQ-27

Ben and Lara,

Our HQ program has asked the Regions for feedback on WQ-27 (see the questions below). I have my own ideas, but frankly YOUR ideas are more significant (in my mind). If you have any feedback, please send it to me by noon-ish on Friday. My boss, Dave Croxton, will be in DC next week (where all the Regional managers will be discussing a variety of topics, including this one).

For the "Program Vision"-

What has worked well, what has not? - this can be from our perspective or from what you know of the State's perspective.

In general the program vision has helped our work in WA. The Alternatives Goal, Priorities Goal, Engagement Goal and Integration Goal have been helpful in providing support for how we are structuring and focusing our program moving forward. Specifically the Alternatives and Integration Goals have been the most important for us.

What has worked well?

- Vision has provided a foundation for us to push forward and formalize program improvements (Alternatives/Integration).
- We support the Vision's increased focus on the importance of implementation. It has helped reinforce the direction we are heading with our program. This policy support for implementation being reflected in the Vision is helpful.
- Prioritization-It is helpful having EPA direction to set priorities. As a result of WQ-27, we were provided an opportunity to assess our planned water cleanup priorities and were able to reassess what water cleanup priority work we should focus on moving into the future. In other words, the process helped us reprioritize work we were doing and anticipated doing over the next several years, and then formalize our priorities. From my perspective it was helpful for us to go through that process. The Vision document and WQ-27 helped facilitate that in-depth review of our water cleanup work prioritization process. Not sure if there would have been that kind of review/hard look without the Vision and WQ 27.

What hasn't worked well?

- The Vision doesn't really speak to some of the systematic failures of the TMDL process. Whether you are trying to implement a TMDL or a TMDL alternative, the ultimate success is tied to having enforceable mechanisms to spur implementation and provide a backstop to voluntary compliance (this is more of a nonpoint implementation issue). States (including ourselves) are trying to be creative in finding state/local government authority, but without a federal backstop using those authorities is extremely difficult. When there are significant nonpoint source contributions to a waterbody, without those authorities successfully implementing TMDLs is virtually impossible. The TMDL vision doesn't



adequately address this issue-not sure if any version of the Vision could actually help with this (frankly only an amendment to the CWA would help and we know how likely that is) but I did want to highlight it as an issue.

- Additionally, there is a scope issue (see our last workload assessment <https://fortress.wa.gov/ecy/publications/documents/1710021.pdf>). How are we going to address all the impairments we have in the state? I think alternatives and better integration of the nonpoint/TMDL programs are a part of the answer (Helen's take on this starting on page 14 is of course spot on). However, even if we do a good job on those two fronts I still don't think we will be able to address all the current impairments in my lifetime. Again, not sure how the Vision can get at this but did want to highlight it as an issue.

#### For "Alternative Plans"-

How have these progressed in our states? Any lessons to share? Laurie, Is Ecology doing STI's? Jayne, Remind of ADEC's "Protection Plan" efforts.

Alternatives are still evolving in WA State. I think we have said this before but we try to frame them more as projects (note: we do understand why EPA has a focus on the plan portion of Alternatives). The key question for us is how we can best use our resources to get to clean water faster. Alternatives give us the opportunity to look at whether other tools and authorities that we have to address impaired waters can get to standards faster by focusing on implementation.

#### Lessons learned?

We are still relatively early in the use of alternatives but there are some issues that are starting to bubble up. Don't think any of these are red hot issues but they are things I think we should start thinking about.

- We are starting to hear more concerns from some in the environmental community around using alternatives. They feel like TMDLs provide them with a more formal process for providing input and creating benchmarks/milestones that are "enforceable".
- There is the question of when do you abandon an alternative approach and pursue a TMDL. This relates to some of the enviros concerns, the following questions come to mind. What happens when an alternative effort stalls out? What happens if benchmarks set by the Alternative are not met? Is adaptive management allowed? If so, at what point does adaptive management become counterproductive (i.e. an excuse for not doing what needs to be done and/or an avoidance mechanism). This is something that I am struggling with. When do we make the decision to stop work on an STI or Alternative and begin the (often lengthy) process of initiating a TMDL?
- Guidance around the factors that should be used in making a decision about pursuing an alternative: My guiding principle is that we should use the approach/tool that gets to clean water the most efficiently. Not sure if there will always be a clean line between when it is better to go the TMDL route v. the Alternative route, but I think as we move forward we can have better internal guidance around what factors should be considered when making that decision. It is good that the vision has provided a lot of flexibility to states, but as we move forward I think this will be important for states to get right (see attached for some of the internal resources we are using to make decisions-please don't share).
- Regulatory Certainty-We are pursuing Alternatives in some large watersheds with point sources (Puget Sound Nutrient Source Reduction Project, Green-Duwamish Toxics Alternative Restoration Plan and Spokane River Toxics). As a general rule I don't think Alternatives are a good idea in places where point sources are a major contributor of pollution. However, there are good reasons why we are pursuing Alternatives in those watersheds. Despite those good reasons I sometimes wonder if ultimately the affected point sources will support these efforts if they are not getting the regulatory certainty a TMDL provides. Again, we are early in developing/implementing these plans but it is one of the things I am thinking about.

#### STI question:

Yes. We are still doing STIs (that is our primary type of TMDL Alternative). In fact, getting to implementation faster and utilizing "Alternatives" is one of Heather's key priorities. She recognizes how important STI/Alternatives will be as we move forward in getting to clean water.

Also, some clarification on how we are defining "TMDL Alternative" v. STI: TMDL Alternative is the label we put on any effort we are pursuing that is intended to address an impaired waterbody (and meet WQ standards) that is not a TMDL. Straight to Implementation (STI) is a specific type of TMDL Alternative. It is an Ecology led process and relies on Ecology

staff actively investigating and identifying problem sites, and working with landowners to improve conditions through the implementation of BMPs.

I attached two pieces of internal guidance that may be helpful in understanding how we are doing this work and thinking through TMDL Alternatives/STI v. TMDL-again please don't share.

For "Success Stories" -

Any communication strategy lessons to share?

Is this related to 319 Success Stories? Or communicating TMDL successes?

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